

§ 1606.8

§ 1606.8 Harassment.

(a) The Commission has consistently held that harassment on the basis of national origin is a violation of title VII. An employer has an affirmative duty to maintain a working environment free of harassment on the basis of national origin.⁸

(b) Ethnic slurs and other verbal or physical conduct relating to an individual's national origin constitute harassment when this conduct:

(1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;

(2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(3) Otherwise adversely affects an individual's employment opportunities.

(c) [Reserved]

(d) With respect to conduct between fellow employees, an employer is responsible for acts of harassment in the workplace on the basis of national origin, where the employer, its agents or supervisory employees, knows or should have known of the conduct, unless the employer can show that it took immediate and appropriate corrective action.

(e) An employer may also be responsible for the acts of non-employees with respect to harassment of employees in the workplace on the basis of national origin, where the employer, its agents or supervisory employees, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases, the Commission will consider the extent of the employer's control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

⁸See CD CL68-12-431 EU (1969), CCH EEOC Decisions ¶6085, 2 FEP Cases 295; CD 72-0621 (1971), CCH EEOC Decisions ¶6311, 4 FEP Cases 312; CD 72-1561 (1972), CCH EEOC Decisions ¶6354, 4 FEP Cases 852; CD 74-05 (1973), CCH EEOC Decisions ¶6387, 6 FEP Cases 834; CD 76-41 (1975), CCH EEOC Decisions ¶6632. See also, Amendment to *Guidelines on Discrimination Because of Sex*, §1604.11(a) n. 1, 45 FR 7476 sy 74677 (November 10, 1980).

29 CFR Ch. XIV (7-1-09 Edition)

APPENDIX A TO § 1606.8—BACKGROUND INFORMATION

The Commission has rescinded §1606.8(c) of the Guidelines on National Origin Harassment, which set forth the standard of employer liability for harassment by supervisors. That section is no longer valid, in light of the Supreme Court decisions in *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), and *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). The Commission has issued a policy document that examines the Faragher and Ellerth decisions and provides detailed guidance on the issue of vicarious liability for harassment by supervisors. EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (6/18/99), EEOC Compliance Manual (BNA), N:4075 [Binder 3]; also available through EEOC's web site, at www.eeoc.gov, or by calling the EEOC Publications Distribution Center, at 1-800-669-3362 (voice), 1-800-800-3302 (TTY).

[45 FR 85635, Dec. 29, 1980, as amended at 64 FR 58334, Oct. 29, 1999]

PART 1607—UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES (1978)

GENERAL PRINCIPLES

Sec.

- 1607.1 Statement of purpose.
- 1607.2 Scope.
- 1607.3 Discrimination defined: Relationship between use of selection procedures and discrimination.
- 1607.4 Information on impact.
- 1607.5 General standards for validity studies.
- 1607.6 Use of selection procedures which have not been validated.
- 1607.7 Use of other validity studies.
- 1607.8 Cooperative studies.
- 1607.9 No assumption of validity.
- 1607.10 Employment agencies and employment services.
- 1607.11 Disparate treatment.
- 1607.12 Retesting of applicants.
- 1607.13 Affirmative action.

TECHNICAL STANDARDS

- 1607.14 Technical standards for validity studies.

DOCUMENTATION OF IMPACT AND VALIDITY EVIDENCE

- 1607.15 Documentation of impact and validity evidence.

DEFINITIONS

- 1607.16 Definitions.